



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3792

Introduced 2/25/2009, by Rep. Elaine Nekritz

SYNOPSIS AS INTRODUCED:

See Index

Creates the Child-Safe Chemicals Act. Establishes the Children's Health Advisory Panel. Requires the Panel's members to serve without compensation and to possess knowledge and expertise in fields relevant to children's health, chemical exposure, and risk assessment. Requires the Panel to recommend, no later than January 1, 2011, a pilot program for addressing chemicals that pose a threat to children's health based on potential exposure to children from children's products. Requires that the pilot program (i) identify chemicals that pose a threat to children's health based on potential exposure, (ii) establish limits for those chemicals in children's products, (iii) identify safer alternatives to those chemicals and create incentives for the development of those alternatives, (iv) ensure appropriate access to all information related to the effects of a chemical substance on children's health, and (v) inform consumers about chemicals that pose a threat to children's health. Requires the Panel to use the recommended pilot program to analyze 5 chemicals, selected jointly by the Directors of the Illinois Department of Public Health and the Illinois Environmental Protection Agency, that may pose a threat to children's health based on potential exposure to children from children's products. Amends the Environmental Protection Act. Authorizes the Agency, acting either individually or in concert with other states or government entities, to maintain or participate in a clearinghouse for information pertaining to the presence of, the hazardous traits associated with, and the potential for human and environmental health effects of (i) chemicals in consumer products and (ii) known or potential alternatives to those chemicals. Requires clearinghouse information to be made available to the public on the Internet. Effective immediately.

LRB096 11642 JDS 22204 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Child-Safe Chemicals Act.

6 Section 5. Legislative Findings. The General Assembly
7 finds:

8 (a) The incidence of some diseases and disorders that have
9 been linked to chemical exposures is on the rise.

10 (b) The metabolism, physiology, and toxic chemical
11 exposure patterns of developing fetuses, infants, and children
12 differ from those of adults, which makes children more
13 vulnerable than adults to the harmful effects of exposure to
14 some synthetic chemicals.

15 (c) Unlike pharmaceuticals and pesticides, manufacturers
16 of most chemical substances are not required under current law
17 to supply human or environmental toxicity information before
18 selling their products to the public. Consequently, the vast
19 majority of chemicals used in consumer products have never had
20 any federal or state government review to evaluate potential
21 toxicity to infants, children, developing fetuses, or adults.

22 (d) To protect children's health, it is important to reduce
23 or eliminate exposures to certain chemicals that are present in

1 children's products or that may be reasonably anticipated
2 either to be placed in children's mouths or to result in
3 children's exposure.

4 Section 10. Definitions.

5 "Children's cosmetics" means cosmetics that are made for,
6 marketed for use by, or marketed to children under the age of
7 12. "Children's cosmetics" includes, but is not limited to,
8 cosmetics that meet any one or more of the following
9 conditions:

10 (a) Represented in its packaging, display, or
11 advertising as appropriate for use by children.

12 (b) Sold in conjunction with, attached to, or packaged
13 together with other products that are packaged, displayed,
14 or advertised as appropriate for use by children.

15 (c) Sold in any one or more of the following:

16 (i) A retail store, catalog, or online Web site, in
17 which a person offers for sale products that are
18 packaged, displayed, or advertised as appropriate for
19 use by children.

20 (ii) A discrete portion of a retail store, catalog,
21 or online Web site, in which a person offers for sale
22 products that are packaged, displayed, or advertised
23 as appropriate for use by children.

24 "Children's jewelry" means jewelry that is made for,
25 marketed for use by, or marketed to children under the age of

1 12. "Children's jewelry" includes, but is not limited to,
2 jewelry that meets any one or more of the following conditions:

3 (a) Represented in its packaging, display, or
4 advertising as appropriate for use by children under the
5 age of 12.

6 (b) Sold in conjunction with, attached to, or packaged
7 together with other products that are packaged, displayed,
8 or advertised as appropriate for use by children.

9 (c) Sized for children and not intended for use by
10 adults.

11 (d) Sold in any one or more of the following:

12 (i) A vending machine.

13 (ii) A retail store, catalog, or online Web site,
14 in which a person offers for sale products that are
15 packaged, displayed, or advertised as appropriate for
16 use by children.

17 (iii) A discrete portion of a retail store,
18 catalog, or online Web site, in which a person offers
19 for sale products that are packaged, displayed, or
20 advertised as appropriate for use by children.

21 "Children's product" means any of the following:

22 (a) Toys.

23 (b) Children's cosmetics.

24 (c) Children's jewelry.

25 (d) Products designed or intended by the manufacturer
26 to help a child with sucking or teething; to facilitate

1 sleep, relaxation, or the feeding of a child; or to be worn
2 as clothing by children.

3 (e) Child car seats.

4 "Cosmetics" means articles intended to be rubbed, poured,
5 sprinkled, or sprayed on, introduced into, or otherwise applied
6 to the human body or any part thereof for cleansing,
7 beautifying, promoting attractiveness, or altering the
8 appearance, and articles intended for use as a component of
9 such an article. "Cosmetics" does not include soap, dietary
10 supplements, or food or drugs approved by the federal Food and
11 Drug Administration.

12 "Manufacturer" means the person who manufactured a final
13 product or the person whose brand name is affixed to a final
14 product. In the case of a product that was imported into the
15 United States, "manufacturer" includes the importer or
16 domestic distributor of the product if the person who
17 manufactured or assembled the product or whose brand name is
18 affixed to the product does not have a presence in the United
19 States.

20 "Person" means any individual, partnership,
21 co-partnership, firm, company, limited liability company,
22 corporation, association, joint stock company, trust, estate,
23 political subdivision, state agency, or any other legal entity,
24 or his, her, or its legal representative, agent, or assigns.

25 "Toy" means a product designed or intended by the
26 manufacturer to be used by a child at play.

1 Section 15. Children's Health Advisory Panel.

2 (a) The Children's Health Advisory Panel is established and
3 shall consist of the Director of the Illinois Department of
4 Public Health or his or her designee, the Director of the
5 Illinois Environmental Protection Agency or his or her
6 designee, and 5 members appointed jointly by the Directors of
7 the Illinois Department of Public Health and Illinois
8 Environmental Protection Agency. Appointed members must
9 possess knowledge and expertise in fields relevant to
10 children's health, chemical exposure, and risk assessment. The
11 members of the Advisory Panel may organize themselves as they
12 deem necessary and shall serve without compensation.

13 (b) No later than January 1, 2011, the Children's Health
14 Advisory Panel shall recommend to the Governor and General
15 Assembly a pilot program for addressing chemicals that pose a
16 threat to children's health based on potential exposure to
17 children from children's products. At a minimum, the pilot
18 program shall address the following:

19 (1) Identifying chemicals that pose a threat to
20 children's health based on potential exposure.

21 (2) Establishing limits for those chemicals in
22 children's products.

23 (3) Identifying safer alternatives to those chemicals
24 and requiring or creating incentives for the development of
25 those alternatives.

1 (4) Ensuring appropriate access to all information
2 related to the effects of a chemical substance on
3 children's health.

4 (5) Informing consumers about chemicals that pose a
5 threat to children's health.

6 The Children's Health Advisory Panel shall use the
7 recommended pilot program to analyze 5 chemicals and shall
8 include the results of the analysis in its recommendation to
9 the Governor and General Assembly. The 5 chemicals shall be
10 chemicals that may pose a threat to children's health based on
11 potential exposure to children from children's products. The 5
12 chemicals shall be selected jointly by the Directors of the
13 Illinois Department of Public Health and the Illinois
14 Environmental Protection Agency.

15 Section 80. The Environmental Protection Act is amended by
16 changing Section 4 as follows:

17 (415 ILCS 5/4) (from Ch. 111 1/2, par. 1004)

18 Sec. 4. Environmental Protection Agency; establishment;
19 duties.

20 (a) There is established in the Executive Branch of the
21 State Government an agency to be known as the Environmental
22 Protection Agency. This Agency shall be under the supervision
23 and direction of a Director who shall be appointed by the
24 Governor with the advice and consent of the Senate. The term of

1 office of the Director shall expire on the third Monday of
2 January in odd numbered years, provided that he or she shall
3 hold office until a successor is appointed and has qualified.
4 The Director shall receive an annual salary as set by the
5 Governor from time to time or as set by the Compensation Review
6 Board, whichever is greater. If set by the Governor, the
7 Director's annual salary may not exceed 85% of the Governor's
8 annual salary. The Director, in accord with the Personnel Code,
9 shall employ and direct such personnel, and shall provide for
10 such laboratory and other facilities, as may be necessary to
11 carry out the purposes of this Act. In addition, the Director
12 may by agreement secure such services as he or she may deem
13 necessary from any other department, agency, or unit of the
14 State Government, and may employ and compensate such
15 consultants and technical assistants as may be required.

16 (b) The Agency shall have the duty to collect and
17 disseminate such information, acquire such technical data, and
18 conduct such experiments as may be required to carry out the
19 purposes of this Act, including ascertainment of the quantity
20 and nature of discharges from any contaminant source and data
21 on those sources, and to operate and arrange for the operation
22 of devices for the monitoring of environmental quality.

23 (c) The Agency shall have authority to conduct a program of
24 continuing surveillance and of regular or periodic inspection
25 of actual or potential contaminant or noise sources, of public
26 water supplies, and of refuse disposal sites.

1 (d) In accordance with constitutional limitations, the
2 Agency shall have authority to enter at all reasonable times
3 upon any private or public property for the purpose of:

4 (1) Inspecting and investigating to ascertain possible
5 violations of this Act, any rule or regulation adopted
6 under this Act, any permit or term or condition of a
7 permit, or any Board order; or

8 (2) In accordance with the provisions of this Act,
9 taking whatever preventive or corrective action, including
10 but not limited to removal or remedial action, that is
11 necessary or appropriate whenever there is a release or a
12 substantial threat of a release of (A) a hazardous
13 substance or pesticide or (B) petroleum from an underground
14 storage tank.

15 (e) The Agency shall have the duty to investigate
16 violations of this Act, any rule or regulation adopted under
17 this Act, any permit or term or condition of a permit, or any
18 Board order; to issue administrative citations as provided in
19 Section 31.1 of this Act; and to take such summary enforcement
20 action as is provided for by Section 34 of this Act.

21 (f) The Agency shall appear before the Board in any hearing
22 upon a petition for variance, the denial of a permit, or the
23 validity or effect of a rule or regulation of the Board, and
24 shall have the authority to appear before the Board in any
25 hearing under the Act.

26 (g) The Agency shall have the duty to administer, in accord

1 with Title X of this Act, such permit and certification systems
2 as may be established by this Act or by regulations adopted
3 thereunder. The Agency may enter into written delegation
4 agreements with any department, agency, or unit of State or
5 local government under which all or portions of this duty may
6 be delegated for public water supply storage and transport
7 systems, sewage collection and transport systems, air
8 pollution control sources with uncontrolled emissions of 100
9 tons per year or less and application of algicides to waters of
10 the State. Such delegation agreements will require that the
11 work to be performed thereunder will be in accordance with
12 Agency criteria, subject to Agency review, and shall include
13 such financial and program auditing by the Agency as may be
14 required.

15 (h) The Agency shall have authority to require the
16 submission of complete plans and specifications from any
17 applicant for a permit required by this Act or by regulations
18 thereunder, and to require the submission of such reports
19 regarding actual or potential violations of this Act, any rule
20 or regulation adopted under this Act, any permit or term or
21 condition of a permit, or any Board order, as may be necessary
22 for the purposes of this Act.

23 (i) The Agency shall have authority to make recommendations
24 to the Board for the adoption of regulations under Title VII of
25 the Act.

26 (j) The Agency shall have the duty to represent the State

1 of Illinois in any and all matters pertaining to plans,
2 procedures, or negotiations for interstate compacts or other
3 governmental arrangements relating to environmental
4 protection.

5 (k) The Agency shall have the authority to accept, receive,
6 and administer on behalf of the State any grants, gifts, loans,
7 indirect cost reimbursements, or other funds made available to
8 the State from any source for purposes of this Act or for air
9 or water pollution control, public water supply, solid waste
10 disposal, noise abatement, or other environmental protection
11 activities, surveys, or programs. Any federal funds received by
12 the Agency pursuant to this subsection shall be deposited in a
13 trust fund with the State Treasurer and held and disbursed by
14 him in accordance with Treasurer as Custodian of Funds Act,
15 provided that such monies shall be used only for the purposes
16 for which they are contributed and any balance remaining shall
17 be returned to the contributor.

18 The Agency is authorized to promulgate such regulations and
19 enter into such contracts as it may deem necessary for carrying
20 out the provisions of this subsection.

21 (l) The Agency is hereby designated as water pollution
22 agency for the state for all purposes of the Federal Water
23 Pollution Control Act, as amended; as implementing agency for
24 the State for all purposes of the Safe Drinking Water Act,
25 Public Law 93-523, as now or hereafter amended, except Section
26 1425 of that Act; as air pollution agency for the state for all

1 purposes of the Clean Air Act of 1970, Public Law 91-604,
2 approved December 31, 1970, as amended; and as solid waste
3 agency for the state for all purposes of the Solid Waste
4 Disposal Act, Public Law 89-272, approved October 20, 1965, and
5 amended by the Resource Recovery Act of 1970, Public Law
6 91-512, approved October 26, 1970, as amended, and amended by
7 the Resource Conservation and Recovery Act of 1976, (P.L.
8 94-580) approved October 21, 1976, as amended; as noise control
9 agency for the state for all purposes of the Noise Control Act
10 of 1972, Public Law 92-574, approved October 27, 1972, as
11 amended; and as implementing agency for the State for all
12 purposes of the Comprehensive Environmental Response,
13 Compensation, and Liability Act of 1980 (P.L. 96-510), as
14 amended; and otherwise as pollution control agency for the
15 State pursuant to federal laws integrated with the foregoing
16 laws, for financing purposes or otherwise. The Agency is hereby
17 authorized to take all action necessary or appropriate to
18 secure to the State the benefits of such federal Acts, provided
19 that the Agency shall transmit to the United States without
20 change any standards adopted by the Pollution Control Board
21 pursuant to Section 5(c) of this Act. This subsection (1) of
22 Section 4 shall not be construed to bar or prohibit the
23 Environmental Protection Trust Fund Commission from accepting,
24 receiving, and administering on behalf of the State any grants,
25 gifts, loans or other funds for which the Commission is
26 eligible pursuant to the Environmental Protection Trust Fund

1 Act. The Agency is hereby designated as the State agency for
2 all purposes of administering the requirements of Section 313
3 of the federal Emergency Planning and Community Right-to-Know
4 Act of 1986.

5 Any municipality, sanitary district, or other political
6 subdivision, or any Agency of the State or interstate Agency,
7 which makes application for loans or grants under such federal
8 Acts shall notify the Agency of such application; the Agency
9 may participate in proceedings under such federal Acts.

10 (m) The Agency shall have authority, consistent with
11 Section 5(c) and other provisions of this Act, and for purposes
12 of Section 303(e) of the Federal Water Pollution Control Act,
13 as now or hereafter amended, to engage in planning processes
14 and activities and to develop plans in cooperation with units
15 of local government, state agencies and officers, and other
16 appropriate persons in connection with the jurisdiction or
17 duties of each such unit, agency, officer or person. Public
18 hearings shall be held on the planning process, at which any
19 person shall be permitted to appear and be heard, pursuant to
20 procedural regulations promulgated by the Agency.

21 (n) In accordance with the powers conferred upon the Agency
22 by Sections 10(g), 13(b), 19, 22(d) and 25 of this Act, the
23 Agency shall have authority to establish and enforce minimum
24 standards for the operation of laboratories relating to
25 analyses and laboratory tests for air pollution, water
26 pollution, noise emissions, contaminant discharges onto land

1 and sanitary, chemical, and mineral quality of water
2 distributed by a public water supply. The Agency may enter into
3 formal working agreements with other departments or agencies of
4 state government under which all or portions of this authority
5 may be delegated to the cooperating department or agency.

6 (o) The Agency shall have the authority to issue
7 certificates of competency to persons and laboratories meeting
8 the minimum standards established by the Agency in accordance
9 with Section 4(n) of this Act and to promulgate and enforce
10 regulations relevant to the issuance and use of such
11 certificates. The Agency may enter into formal working
12 agreements with other departments or agencies of state
13 government under which all or portions of this authority may be
14 delegated to the cooperating department or agency.

15 (p) Except as provided in Section 17.7, the Agency shall
16 have the duty to analyze samples as required from each public
17 water supply to determine compliance with the contaminant
18 levels specified by the Pollution Control Board. The maximum
19 number of samples which the Agency shall be required to analyze
20 for microbiological quality shall be 6 per month, but the
21 Agency may, at its option, analyze a larger number each month
22 for any supply. Results of sample analyses for additional
23 required bacteriological testing, turbidity, residual chlorine
24 and radionuclides are to be provided to the Agency in
25 accordance with Section 19. Owners of water supplies may enter
26 into agreements with the Agency to provide for reduced Agency

1 participation in sample analyses.

2 (q) The Agency shall have the authority to provide notice
3 to any person who may be liable pursuant to Section 22.2(f) of
4 this Act for a release or a substantial threat of a release of
5 a hazardous substance or pesticide. Such notice shall include
6 the identified response action and an opportunity for such
7 person to perform the response action.

8 (r) The Agency may enter into written delegation agreements
9 with any unit of local government under which it may delegate
10 all or portions of its inspecting, investigating and
11 enforcement functions. Such delegation agreements shall
12 require that work performed thereunder be in accordance with
13 Agency criteria and subject to Agency review. Notwithstanding
14 any other provision of law to the contrary, no unit of local
15 government shall be liable for any injury resulting from the
16 exercise of its authority pursuant to such a delegation
17 agreement unless the injury is proximately caused by the
18 willful and wanton negligence of an agent or employee of the
19 unit of local government, and any policy of insurance coverage
20 issued to a unit of local government may provide for the denial
21 of liability and the nonpayment of claims based upon injuries
22 for which the unit of local government is not liable pursuant
23 to this subsection (r).

24 (s) The Agency shall have authority to take whatever
25 preventive or corrective action is necessary or appropriate,
26 including but not limited to expenditure of monies appropriated

1 from the Build Illinois Bond Fund and the Build Illinois
2 Purposes Fund for removal or remedial action, whenever any
3 hazardous substance or pesticide is released or there is a
4 substantial threat of such a release into the environment. The
5 State, the Director, and any State employee shall be
6 indemnified for any damages or injury arising out of or
7 resulting from any action taken under this subsection. The
8 Director of the Agency is authorized to enter into such
9 contracts and agreements as are necessary to carry out the
10 Agency's duties under this subsection.

11 (t) The Agency shall have authority to distribute grants,
12 subject to appropriation by the General Assembly, for financing
13 and construction of municipal wastewater facilities. With
14 respect to all monies appropriated from the Build Illinois Bond
15 Fund and the Build Illinois Purposes Fund for wastewater
16 facility grants, the Agency shall make distributions in
17 conformity with the rules and regulations established pursuant
18 to the Anti-Pollution Bond Act, as now or hereafter amended.

19 (u) Pursuant to the Illinois Administrative Procedure Act,
20 the Agency shall have the authority to adopt such rules as are
21 necessary or appropriate for the Agency to implement Section
22 31.1 of this Act.

23 (v) (Blank.)

24 (w) Neither the State, nor the Director, nor the Board, nor
25 any State employee shall be liable for any damages or injury
26 arising out of or resulting from any action taken under

1 subsection (s).

2 (x)(1) The Agency shall have authority to distribute
3 grants, subject to appropriation by the General Assembly,
4 to units of local government for financing and construction
5 of public water supply facilities. With respect to all
6 monies appropriated from the Build Illinois Bond Fund or
7 the Build Illinois Purposes Fund for public water supply
8 grants, such grants shall be made in accordance with rules
9 promulgated by the Agency. Such rules shall include a
10 requirement for a local match of 30% of the total project
11 cost for projects funded through such grants.

12 (2) The Agency shall not terminate a grant to a unit of
13 local government for the financing and construction of
14 public water supply facilities unless and until the Agency
15 adopts rules that set forth precise and complete standards,
16 pursuant to Section 5-20 of the Illinois Administrative
17 Procedure Act, for the termination of such grants. The
18 Agency shall not make determinations on whether specific
19 grant conditions are necessary to ensure the integrity of a
20 project or on whether subagreements shall be awarded, with
21 respect to grants for the financing and construction of
22 public water supply facilities, unless and until the Agency
23 adopts rules that set forth precise and complete standards,
24 pursuant to Section 5-20 of the Illinois Administrative
25 Procedure Act, for making such determinations. The Agency
26 shall not issue a stop-work order in relation to such

1 grants unless and until the Agency adopts precise and
2 complete standards, pursuant to Section 5-20 of the
3 Illinois Administrative Procedure Act, for determining
4 whether to issue a stop-work order.

5 (y) The Agency shall have authority to release any person
6 from further responsibility for preventive or corrective
7 action under this Act following successful completion of
8 preventive or corrective action undertaken by such person upon
9 written request by the person.

10 (z) The Agency, acting either individually or in
11 cooperation with other states or government entities, may
12 maintain or participate in a clearinghouse for information
13 pertaining to the presence of, the hazardous traits associated
14 with, and the potential for human and environmental health
15 effects of (i) chemicals in consumer products and (ii) known or
16 potential alternatives to those chemicals. Information in the
17 clearinghouse must be publicly accessible through the
18 Internet.

19 For purposes of this subsection, the term "consumer
20 product" means any item sold for residential or commercial use,
21 including any component parts and packaging. For purposes of
22 this subsection, "consumer product" does not include (i) a drug
23 or biologic regulated by the U.S. Food and Drug Administration,
24 (ii) a food, beverage, or food or beverage additive, (iii)
25 tobacco products, or (iv) a pesticide regulated by the U.S.
26 Environmental Protection Agency; however, the term "consumer

1 product" does include any container or packaging in which any
2 of these excluded items are sold.

3 (Source: P.A. 92-574, eff. 6-26-02; 93-152, eff. 7-10-03.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.

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2

Statutes amended in order of appearance

3

New Act

4

415 ILCS 5/4

from Ch. 111 1/2, par. 1004